

1 COOLEY LLP  
BOBBY GHAJAR (198719)  
2 (bghajar@cooley.com)  
COLETTE GHAZARIAN (322235)  
3 (cghazarian@cooley.com)  
1333 2nd Street, Suite 400  
4 Santa Monica, California 90401  
Telephone: (310) 883-6400  
5 MARK WEINSTEIN (193043)  
(mweinstein@cooley.com)  
6 KATHLEEN HARTNETT (314267)  
(khartnett@cooley.com)  
7 JUDD LAUTER (290945)  
(jlauter@cooley.com)  
8 ELIZABETH L. STAMESHKIN (260865)  
(lstameshkin@cooley.com)  
9 3175 Hanover Street  
Palo Alto, CA 94304-1130  
10 Telephone: (650) 843-5000  
11 CLEARY GOTTlieb STEEN & HAMILTON LLP  
ANGELA L. DUNNING (212047)  
12 (adunning@cgsh.com)  
1841 Page Mill Road, Suite 250  
13 Palo Alto, CA 94304  
Telephone: (650) 815-4131

14 *[Full Listing on Signature Page]*

15 *Counsel for Defendant Meta Platforms, Inc.*

16  
17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19 SAN FRANCISCO DIVISION

20 RICHARD KADREY, *et al.*,  
21 Individual and Representative Plaintiffs,  
22 v.  
23 META PLATFORMS, INC., a Delaware  
24 corporation;  
25 Defendant.

Case No. 3:23-cv-03417-VC-TSH

**DEFENDANT'S SUPPORT FOR  
ADMINISTRATIVE MOTION TO CONSIDER  
WHETHER ANOTHER PARTY'S MATERIAL  
SHOULD BE SEALED [DKT. 301]**

Pursuant to Civil Local Rule 79-5(f), Defendant Meta Platforms, Inc. (“Meta”) respectfully supports Plaintiffs’ Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed (Dkt. 301).

Meta requests to seal the following documents in order to protect Meta’s confidential business information:

Document	Sealing Request
Plaintiffs’ Notice of Motion and Motion for Leave to Amend Consolidated Complaint (“Motion”) (Dkt. 300)	<ul style="list-style-type: none"> <li>Redacted Portions in Exhibit A to Declaration of Nikki Vo (“Vo Declaration”)</li> </ul>
Exhibit 1 to the Declaration of Joshua M. Stein (“Stein Declaration”) (Dkt. 300-2)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Exhibit 2 to Stein Declaration (Dkt. 300-3)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Exhibit 3 to Stein Declaration (Dkt. 300-4)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Exhibit 5 to Stein Declaration (Dkt. 300-6)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Exhibit 6 to Stein Declaration (Dkt. 300-7)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Exhibit 7 to Stein Declaration (Dkt. 300-8)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Exhibit 8 to Stein Declaration (Dkt. 300-9)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Exhibit 9 to Stein Declaration (Dkt. 300-10)	<ul style="list-style-type: none"> <li>Entire document</li> </ul>
Appendix A to Stein Declaration (Dkt. 300-11)	<ul style="list-style-type: none"> <li>Redacted portions in Exhibit B to Vo Declaration</li> </ul>
Appendix B to Stein Declaration (Dkt. 300-12)	<ul style="list-style-type: none"> <li>Redacted portions in Exhibit C to Vo Declaration</li> </ul>

## I. LEGAL ARGUMENT

Though the presumption of public access to judicial proceedings and records is strong, it “is not absolute.” *Nixon v. Warner Commc’ns. Inc.*, 435 U.S. 589, 598 (1978). The Ninth Circuit treats documents “attached to dispositive motions differently from records [*i.e.*, documents] attached to non-dispositive motions.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006); *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098 (9th Cir. 2016). For non-dispositive motions, such as Plaintiffs’ Motion to Amend Case Management Schedule (Dkt.

193), the “good cause” standard applies. *OpenTV v. Apple*, No. 14-cv-01622-HSG, 2015 WL 5714851, at \*2 (N.D. Cal. Sept. 17, 2015); *Kamakana*, 447 F.3d at 1180 (“A ‘good cause’ showing will suffice to seal documents produced in discovery.”). The Federal Rules afford district courts “flexibility in balancing and protecting the interests of private parties.” *Kamakana*, 447 F.3d at 1180; *DSS Tech. Mgmt. v. Apple*, No. 14-cv-05330-HSG, 2020 WL 210318, at \*8 (N.D. Cal. Jan. 14, 2020), *aff’d*, 845 F. App’x 963 (Fed. Cir. 2021) (finding good cause to seal “confidential business and proprietary information”).

The Exhibits to the Stein Declaration consist of highly confidential internal discussions among Meta employees, deposition testimony by Meta’s employees, and internal business documents concerning Meta’s processes in developing its generative AI offerings. Many of the documents contain detailed technical information and trade secret information. The redacted portions of Plaintiffs’ Motion and Appendices A and B to the Stein Declaration – which consist of Plaintiffs’ proposed Third Amended Consolidated Complaint and a redline of that complaint against the operative complaint in this case – reflect, refer to, and discuss the information contained in these documents.

As this information is highly confidential, Meta must request sealing of the documents and redaction portions listed above. Meta takes steps to carefully protect the confidentiality of information of this sort because the disclosure of such information has the potential to cause significant competitive injury to Meta. *See, e.g., Space Data Corp. v. Alphabet Inc.*, No. 16-CV-03260-BLF, 2019 WL 285799, at \*1 (N.D. Cal. Jan. 22, 2019) (finding information regarding party’s confidential and proprietary technical information sealable). To the extent the materials Meta seeks to seal include non-confidential background information, sealing of such information within the context of Plaintiffs’ Motion and proposed amended complaint is necessary to maintain the confidentiality of Meta’s protected information, as the discussion necessarily implies conduct by Meta which is highly sensitive, non-public, and which Meta has taken steps to keep confidential. Accordingly, this sealing request is critical to protecting Meta’s confidential sensitive technical and competitive information.

The specific basis for sealing these materials is outlined in the accompanying declaration of Meta’s Director and Associate General Counsel, Nikki Vo. As outlined in Ms. Vo’s declaration, disclosure of the protected information contained in these materials would work competitive harm to Meta if this information is publicly disclosed. The Parties’ sealing requests and proposed redactions are narrowly tailored to include only that information which would cause specific, articulable harm, as identified in Ms. Vo’s declaration. In each instance, the harm to Meta outweighs the public’s interest in disclosure. *See, e.g., In re iPhone App. Litig.*, No. 11-md-02250-LHK, 2013 WL 12335013, at \*2 (N.D. Cal. Nov. 25, 2013) (granting motion to seal where the defendant’s interest in “maintaining the confidentiality of information about its technology and internal business operations” outweighed that of the public in accessing such documents).

## II. CONCLUSION

For the foregoing reasons, Meta respectfully requests that the Court grant Plaintiffs’ Motion to Consider Whether Another Party’s Material Should Be Sealed.

Dated: December 4, 2024

COOLEY LLP

By: /s/Colette Ghazarian

Bobby Ghajar  
Philip Morton  
Mark Weinstein  
Kathleen Hartnett  
Matthew Brigham  
Judd Lauter  
Liz Stameshkin  
Colette Ghazarian  
Juan Pablo Gonzalez  
Cole Poppell

LEX LUMINA PLLC  
Mark A. Lemley

CLEARY GOTTlieb STEEN &  
HAMILTON LLP  
Angela L. Dunning

Attorneys for Defendant  
META PLATFORMS, INC.

*Full Counsel List*

COOLEY LLP  
PHILLIP MORTON (*pro hac vice*)  
(pmorton@cooley.com)  
COLE A. POPPELL (*pro hac vice*)  
(cpoppell@cooley.com)  
1299 Pennsylvania Avenue, NW, Suite 700  
Washington, DC 20004-2400  
Telephone: (202) 842-7800

COOLEY LLP  
MATTHEW BRIGHAM (191428)  
(mbrigham@cooley.com)  
JUAN PABLO GONZALEZ (334470)  
(jgonzalez@cooley.com)  
3175 Hanover Street  
Palo Alto, CA 94304-1130  
Telephone: (650) 843-5000

LEX LUMINA PLLC  
MARK A. LEMLEY (155830)  
(mlemley@lex-lumina.com)  
745 Fifth Avenue, Suite 500  
New York, NY 10151  
Telephone: (646) 898-2055

311546259